

APPROVED 10/15/03

TOWN OF WESTFORD

ZONING BOARD OF APPEALS

MINUTES

DATE: September 24, 2003

TIME: 7:09 P.M.

PLACE: Westford Academy Lecture Hall

PRESENT: Sam Frank, Ron Johnson, Dave Earl,
Jay Enis-arrived at 8:00, Roger Hall, Bob Herrmann, Jim Kazeniac

OTHERS

PRESENT: Jennifer Burke-Permitting Office Manager,
Ellen Callahan Doucette-Town Counsel
Audience Members

**99 MAIN STREET – ROSEGATE, LLC – 40B COMPREHENSIVE
PERMIT REQUEST**

The Board met to consider the granting of a Comprehensive Permit for Rosegate Development, LLC at 99 Main Street. Frank referenced the Findings and Decision dated September 25, 2003; the list of possible additional items dated September 23, 2003; and the list of Waivers Granted and Waivers Denied.

The Board reviewed the draft Findings and Decision.

The Board revised FINDING #7: *additional language regarding the size of the lot and wetlands pursuant to the applicant's representation; and that there are significant additional wetlands that abut the back of the site and drain into an intermittent stream.*

The Board removed FINDING #20 in its entirety.

The Board revised the first paragraph of the Decision as follows: ...The term "Board" as set forth herein shall mean the *Westford Zoning Board of Appeals*...

The Board revised Condition #2 as follows: 2 bedrooms: *at least 6 units*
3 bedrooms: *up to 4 units*

The Board added language regarding the number of parking spaces.

The Board added language to Condition #13 (g) Signs (if signs are located on the Development); or *after development, in which case the Westford Sign Bylaw shall apply as well.*

The Board revised Condition #16 as follows: ...the Applicant shall submit an amended plan to the *Westford Zoning Board of Appeals* for approval.

The Board removed from Condition #19 the words "or his assigns".

The Board revised Condition #32 as follows: The *Westford* Conservation Commission's Order of Conditions... shall be made an *integral* part of this comprehensive permit...

The Board revised Condition #39 as follows: The Applicant *shall* establish a buffer *screen* of evergreens spaced no *more* than 6 feet apart and a minimum height of 10 feet along the Martinez property line. The applicant *shall* ensure that the successor *unit owners association* will maintain, replace and keep neatly trimmed the evergreen screen by placing a covenant on the deed *which transfers* the units.

The Board reviewed the list of 13 possible additional items.

The Board removed item number 10 and item number 13. The Board added item number 12 to Condition #13 i. as follows: Open space and recreational plan *to include a list of the furnishings and equipment, etc. to be installed or provided in the area.*

The Board reviewed and revised the list of Waivers Granted (Exhibit B) and Waivers Denied (Exhibit C).

MOTION TO ACCEPT THE APPROVAL WITH CONDITIONS

It was moved by Johnson, seconded by Hall, VOTED 5 IN FAVOR (Frank, Johnson, Earl, Enis, Frank) and 2 NOT VOTING (Alternates Herrmann and Kazeniac), to accept the Approval with Conditions which we have discussed over these many months and reviewed tonight including the Waivers granted as listed in Exhibit B and the Waivers denied as listed in Exhibit C.

Robert Walker, applicant, read a statement indicating he thought that the decision was egregious regarding the opportunity for improving affordable housing in Town. Walker felt that the decision was base, arbitrary and capricious. Walker stated that they will not

stand by and allow this board or the individuals on this board, to abuse their power and position. Walker stated that they will prevail in their efforts to increase a quality and quantity of affordable housing units in this Town. Walker stated that adding affordable units is a great thing to do regardless of your personal opinions. Walker stated that along with delay in providing the needed affordable housing you have cost the taxpayers of this Town tens of thousands of dollars defending your baseless decision. Walker stated that the Town has set a dangerous precedent tonight and a total disservice to the Town. Frank pointed out that the Applicant applied for 3 affordable units and the decision also includes 3 affordable units.

Dennis Keris, 100 Main Street, stated that the Board had visited a site that each and everyone of the Board know is marginal at best. Keris stated that the Board did what it had to do. Keris stated that he negotiates contracts in the Town of Concord for the unions and knows what it is to negotiate. Keris felt that the Board tried its earnest to negotiate something that was reasonable whether he agreed with the earnest of how reasonable it is because he lives directly across the street. Keris believed that, based upon what was just heard from Mr. Walker, the Town is up against somebody who is a bully and we have bullies in the school systems who grow up to be bullies in the adult world. Keris stated that the Board is facing a bully who is going to do whatever he has to get what he wants. Keris suggested that the Board now approach, beyond its intelligent decision, the Selectmen and anyone else and say its time for this Town to take a stance. Keris did not want Westford to be bullied but to be an intelligent community and say in earnest that the decision has to be made in the best interests of the Town.

Sandy Martinez, 95 Main Street, stated that the neighbors and abutters resent the fact that it was constantly said that we did not want affordable housing and we said time and time again that was not the issue. Martinez stated that she did not care if all of them are affordable housing, the issue is using marginal land in a neighborhood as this was trying to do and get every dime that is possible out of it and not caring about the environment. Martinez felt that the Board did not have a choice to vote no because we have already been told that it will go to the hearing board and it is going to be no conditions. Martinez suggested that the Selectmen drive by the site to get an idea of the attitude of the Applicant because the grass is overgrown. Martinez felt that the Applicant is trying to make things difficult because the neighbors dared to question.

ADJOURNMENT

It was moved by Johnson, seconded by Hall, and VOTED UNANIMOUSLY, to adjourn the meeting at 8:40 p.m.

Submitted by Beth Kinney, Recording Secretary